

## REMARKS

Claims 1-6 are pending in this application. All of the pending claims were rejected.

Claims 1-3 and 6 are currently amended. Support for the claim amendments can be found in the specification at pages 38, 39, and 51-53. Reconsideration is respectfully requested.

Claim 1 has been amended to recite a new limitation which clearly distinguishes the cited references. In particular, claim 1 now recites that the ascertaining logic considers signal attenuation where the alternative AP transmits at less than full power. As described in the specification, the notion of what constitutes a better AP takes into account the distance to the AP in Banzais.<sup>1</sup> The distance in Banzais is a function of the received power level and the transmit power backoff.<sup>2</sup> Signal attenuation can be determined from received power level and transmit power backoff. Taking into account an attenuation of transmissions by the AP, e.g., for interference mitigation, permits the wireless device to select an AP which might be better only after that APs transmit power is increased. Without that ability, the better alternative AP might be overlooked or judged to not be better than the current AP. The newly recited limitation of “logic for ascertaining, by the wireless device, whether the wireless device should attempt to associate with an alternative access point, the ascertaining logic operating at least in-part on indications of a level of attenuation of signal strength of transmissions from the alternative access point where the alternative access point transmits at less than full power” therefore renders the rejection moot. Withdrawal of the rejection of claim 1 is therefore requested.

Claims 2-5 are dependent claims which further distinguish the invention, and which are allowable for the same reason as claim 1. Note also that claim 3 has been amended to recite that

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<sup>1</sup> Page 51, first full sentence

<sup>2</sup> Paragraph at bottom of page 38 through top of page 39

AP loading is factored into the decision, support for which is in the specification in section 4.c.1 *Distance to Load Factor Conversion*, starting at page 53. Withdrawal of the rejections of claims 2-5 is also therefore requested.

The informalities which were the subject of the §112 rejection (lack of antecedent basis) have been corrected. The “technology type” language has been removed. However, that language was removed in order to protect other aspects of the invention, since the technology type limitation is claimed in another application of Applicant. For the sake of completeness, and to show that support for that language is in fact in the Specification, note that the specification states that “the notion of what constitutes a better AP takes into account the distance in Banzais, the **available data rate**, and the loading.”<sup>3</sup> (emphasis added) Available data rate is calculated as a function of signal strength and technology type. In particular, “the data rate is deduced based on the received signal strength **and the technology being used (i.e., in an 802.11 environment, the 802.11 mode of operation (a, b, g)).**”<sup>4</sup> (emphasis added) The specification then describes that “in an 802.11 environment, the distance **and 802.11 mode (a, b, g) are used to retrieve the expected data rate for the STA 16 from the distance\_to\_rate table,**” (emphasis added) an example of which is shown in **Table II in Figure 31.**<sup>5</sup> The algorithms for performing calculations are listed at the bottom of page 53, and at page 54, line 5. Therefore, the specification explicitly teaches that (1) technology type is used to determine whether the alternative AP is better; and (2) that the term “technology” refers to 802.11 modes and analogous protocols. Further, a specific example is illustrated in Table II in Figure 31.

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<sup>3</sup> page 51, lines 1-2

<sup>4</sup> page 52, lines 4-6

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned, Applicants' Attorney at 978-264-4001 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

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<sup>5</sup> page 53, line 19 through page 54, line 2